

August 21, 2012

Hon. Douglas H. Shulman
Commissioner
Internal Revenue Service
Room 3000 IR
1111 Constitution Avenue, N.W.
Washington, DC 20224

Lois Lerner
Director of the Exempt Organizations Division
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: Petition for rulemaking on eligibility requirements for Section 501(c)(4) status and requests submitted to IRS calling for investigations of certain groups.

Dear Commissioner Shulman and Director Lerner:

Enclosed is a report published by *ProPublica* on August 19, 2012, entitled, "How Nonprofits Spend Millions on Elections and Call it Public Welfare." According to the report:

An investigation by ProPublica, drawing on documents filed with the Internal Revenue Service and the Federal Election Commission, offers the most detailed picture to date of how 501(c)(4) groups have used their tax status for purposes likely never intended.

Our examination shows that dozens of these groups do little or nothing to justify the subsidies they receive from taxpayers. Instead, they are pouring much of their resources, directly or indirectly, into political races at the local, state and federal level.

We believe the report further documents the case we have made in a series of letters to the IRS that certain groups are improperly claiming Section 501(c)(4) status and that new regulations are needed to properly define the eligibility requirements for Section 501(c)(4) status.

Sincerely,

/s/ Gerald Hebert

/s/ Fred Wertheimer

J. Gerald Hebert
Executive Director

Fred Wertheimer
President

ProPublica

How Nonprofits Spend Millions on Elections and Call it Public Welfare

By [Kim Barker](#)

August 19, 2012

Matt Brooks describes the mission of the Republican Jewish Coalition as educating the Jewish community about critical domestic and foreign policy issues.

But the well-dressed crowd that gathered in May for a luncheon on the 24th floor of a New York law firm easily could have figured that the group had a different purpose: Helping Mitt Romney win the presidency.

Brooks, the group's executive director, showed the 100 or so attendees two coalition-funded [ads taking aim](#) at President Barack Obama. Then Brooks made a pitch for a \$6.5 million plan to help Romney in battleground states, reminding guests that their donations would not be publicly disclosed by the tax-exempt group.

"Contributions to the RJC are not reported," Brooks told the people sitting around a horseshoe-shaped table. "We don't make our donors' names available. We can take corporate money, personal money, cash, shekels, whatever you got."

The Republican Jewish Coalition and similar organizations enjoy tax-exempt status in exchange for promoting social welfare. In this election, the most expensive in U.S. history, they also have emerged as the primary conduit for anonymous big-money contributions.

Forget super PACs, their much-hyped cousins, which can take unlimited contributions but must name their donors. [More money](#) is being spent on TV advertising in the presidential race by social welfare nonprofits, known as 501(c)(4)s for their section of the tax code, than by any other type of independent group.

As of Aug. 8, they had spent more than \$71 million on ads mentioning a candidate for president, according to estimates by Kantar Media's Campaign Media Analysis Group, or [CMAG](#). Super PACs have spent an estimated \$56 million.

Congress created the legal framework for 501(c)(4) nonprofits nearly a century ago. To receive the tax exemption, groups were supposed to be "operated exclusively for the promotion of social welfare." The IRS later opened the door to some forms of political activity by interpreting the

statute to mean groups had to be "[primarily](#)" engaged in enhancing social welfare. But neither the tax code nor regulators set out how this would be measured.

In recent years, Democrats and Republicans alike have seized on that seemingly innocuous wording to create the darkest corner of American political fundraising.

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Our examination shows that dozens of these groups do little or nothing to justify the subsidies they receive from taxpayers. Instead, they are pouring much of their resources, directly or indirectly, into political races at the local, state and federal level.

The 2010 election functioned, effectively, as a dry run, providing a blueprint for what social welfare groups are doing on a larger scale today. Records on what is happening in the 2012 campaign will not be available until well after the election.

For this story, ProPublica reviewed thousands of pages of filings for 106 nonprofits active during the 2010 election cycle, tracking what portion of their funds went into politics. We watched TV ads bought by these groups, looked at documents from other nonprofits that gave them money, and interviewed dozens of campaign finance experts and political strategists.

We found that some groups said they would not engage in politics when they applied for IRS recognition of their tax-exempt status. But later filings showed they spent millions on just such activities.

On the [very day](#) in 2008 that the [American Future Fund](#) mailed its application to the IRS, checking the box for "no" on whether it planned to participate in politics, it [uploaded an ad](#) to YouTube praising a Republican senator. The group reported more than [\\$8 million](#) in political spending in 2010.

We also found that social welfare groups used a range of tactics to underreport their political activities to the IRS, a critical measure in determining whether they are entitled to remain tax-exempt.

Many groups told the IRS they spent far less on politics than they reported to federal election officials. Some classified expenditures that clearly praised or criticized candidates for office as "lobbying," "education" or "issue advocacy" on their tax returns.

One group, the [Center for Individual Freedom](#), told election officials that it spent \$2.5 million on ads in 2010, when it paid for commercials criticizing [Democrats in 10 districts](#). But it reported to the IRS that it spent [nothing](#) to directly or indirectly influence elections, calling those same ads "education" or "legislative activities."

In several instances, nonprofits funneled much of their money to other 501(c)(4)s, which experts say is a way to meet, or appear to meet, IRS requirements for promoting social welfare. Yet records show the recipients of those grants spent much of their money on political activities, whether ads or voter-registration drives.

For example, almost 70 percent of [America's Families First's](#) 2010 expenditures went to grants to [five social welfare nonprofits](#). Four spent money on ads supporting Democrats or criticizing Republicans, including one group that put [almost half](#) of its expenditures into political ads.

No one from the Center for Individual Freedom or the American Future Fund responded to phone calls and emails from ProPublica asking for comment. In a written statement, America's Families First said its primary purpose was "issue advocacy" but did not answer specific questions about grants.

Campaign-finance watchdogs say the IRS has not clarified rules for social welfare groups or enforced them vigorously.

"The tax laws are being ripped off and the public is being denied information to which they are entitled — namely, who is financing ads that are being run to influence their votes," said Fred Wertheimer, the president of [Democracy 21](#), a watchdog group that has filed repeated complaints about 501(c)(4)s to regulators.

The IRS declined to answer questions from ProPublica for this story. The agency said in its [annual work plan](#) that it would look at "serious allegations of impermissible political intervention" by social welfare groups.

Marcus Owens, who was the director of the IRS' exempt organizations division for 10 years, pointed out that chasing political nonprofits isn't the agency's primary function, nor one for which it is staffed. One measure of this: Between 2001 and 2011, the IRS recognized more than 14,000 501(c)(4)s and turned down 56 applications.

One reason the IRS struggles is that it can't match the speed of politics. By the time some groups submitted tax returns spelling out the millions they put into the 2010 election, they had stopped operating, or disbanded and reformed under new names, ProPublica found.

The most politically active social welfare groups — former Minnesota Republican Sen. Norm Coleman's American Action Network and GOP strategist Karl Rove's Crossroads GPS — only filed tax returns covering fall 2010 in the spring of this year.

The [Republican Jewish Coalition](#), though formed in 1985, in many ways epitomizes the new breed of political-minded social welfare nonprofits.

The group's [initial IRS application](#) said it would not engage in politics, yet its 2010 tax return says it gave [almost \\$3.8 million](#) to other groups for political activities.

Separately, the Republican Jewish Coalition told the FEC it spent more than \$1.1 million on political ads, money that wasn't reported to the IRS. Together, the grants and the political advertising made up almost 40 percent of the total expenditures of the group, which is chaired by GOP super donor and casino magnate [Sheldon Adelson](#).

"Our efforts and our expenditures are well within our primary purpose test requirements," Brooks said in an interview. "Everything we do is strictly within the legal guidelines."

Recent Rulings Embolden Nonprofits

Social welfare nonprofits have emerged as a prime vehicle for political money for several reasons.

Like super PACs, they can rake in unlimited contributions, support and oppose candidates, and buy ads right up until Election Day. But unlike super PACs, they don't have to disclose their donors.

Although individuals cannot deduct contributions to social welfare nonprofits on their taxes, companies may be able to write off donations as business expenses as long as they aren't earmarked for lobbying or political ads.

Many social welfare nonprofits became more active in politics after a series of recent court rulings, including the Supreme Court's Citizens United decision in January 2010, reshaped the rules of campaign finance.

Previously, laws had barred nonprofits from accepting donations from corporations or unions for political purposes and had mostly restricted 501(c)(4)s to generic "issue" ads that stopped short of calling on people to vote for or against candidates.

Citizens United dismantled this system. In a 5-4 decision, the high court said corporations and unions enjoyed the free speech rights of any individual. They could spend directly on political ads or give unlimited amounts of money to nonprofits for political activities. Over the next two years, contributions to existing social welfare nonprofits skyrocketed and new ones geared specifically toward elections were formed.

"It really sounded the starting gun for the creation of nonprofits that were strictly political in nature," said Sheila Krumholz, executive director of the Center for Responsive Politics, a nonpartisan research group that tracks money in politics.

Some new-style social welfare nonprofits share staff members and offices with super PACs. Their goals are intertwined: [Crossroads GPS](#), or Crossroads Grassroots Policy Strategies, and its sister super PAC, American Crossroads, for example, announced that together they hoped to spend \$200 million on the presidential election. Political operatives often hold key positions: The vice president of policy at Crossroads GPS oversaw the development and passage of the Republican platform in 2008.

Political expenditures by groups that do not disclose their donors — a category that includes trade associations like the U.S. Chamber of Commerce as well as social welfare nonprofits — have jumped dramatically in recent years. In 2006, groups that didn't report their donors made up less than 2 percent of outside spending, excluding party committees, [research by the Center for Responsive Politics](#) shows. By 2010, that had grown to more than 40 percent.

Most of the money spent by social welfare groups in 2010 came from conservative groups, a pattern holding true so far this year. As of Aug. 8, CMAG estimates show, liberal groups accounted for only \$1.6 million of the total spent by such organizations on TV ads for the presidential race. By contrast, the two leading conservative 501(c)(4)s, Crossroads GPS and [Americans for Prosperity](#), founded by conservative billionaire brothers David and Charles Koch, had spent about \$60 million.

Even as the role of social welfare nonprofits in politics has expanded, the IRS has not clarified how much time and resources they can legally devote to political activities — or what it means to be "primarily" engaged in promoting what the agency terms the "common good and general welfare of the people of the community."

Some groups have interpreted the rules to mean they can spend up to 49 percent of their money on political ads. The IRS has never set a hard limit. The agency has struggled to revoke or deny tax exemptions to groups because of political activity, sometimes having its decisions reversed by courts.

Many established social welfare nonprofits, such as the Sierra Club or the National Right to Life Committee, spend only a fraction of their money on political ads. But a few groups have devoted most of their expenditures to ads that have an undeniable political component, ProPublica found.

A group called [Economy Forward](#) spent \$173,470 on ads in March 2010 praising Senate Majority Leader Harry Reid, the Nevada Democrat, according to a transcript of the [ad](#) and public filings with eight TV stations in Nevada. That's almost [99 percent](#) of the total the group told the IRS it spent that year. The group did not respond to repeated requests for comment.

More than three-quarters of the money the American Action Network — former Republican Sen. Coleman's group — told the IRS it spent in its 2010 tax year was for political ads. In an email, American Action Network spokesman Dan Conston said the group complied with all laws and government regulations.

"The IRS seems to blink if you push them on this, which is what groups like the American Action Network and Crossroads GPS are probably betting on," said Lloyd Hitoshi Mayer, an associate dean and law professor at Notre Dame University who specializes in the intersection of tax and political law.

Groups Say "No" to Politics; Tax Returns Say Otherwise

When groups apply to the IRS for recognition as tax-exempt, they must spell out their plans. They also must swear under penalty of perjury that they believe what they say is true.

Politics is one litmus test the agency uses to determine whether a group has a legitimate social welfare purpose and warrants a tax exemption, experts say. Question 15 on the application asks, "Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office or to an office in a political organization?"

ProPublica compared applications from 58 501(c)(4)s with tax returns they filed later. We found 24 groups that initially said "no" to politics then filed tax returns showing they had done the opposite.

Even before mailing its application to the IRS saying it would not spend money on elections, the [Alliance for America's Future](#) was [running TV ads](#) supporting Republican candidates for governor in [Nevada](#) and [Florida](#). It also had given \$133,000 to two political committees directed by [Mary Cheney](#), the daughter of the former vice president. No one from the Alliance for America's Future returned calls for comment.

Another group, the [Revere America Association](#), launched with the help of former Republican New York [Gov. George Pataki](#), told the IRS in May 2010 that it [wouldn't spend money](#) to influence elections. But in its 2010 tax return, Revere America said it spent [about \\$2.5 million](#) on political ads.

Marianne Zuk, the group's president, did not return calls or emails about the discrepancy. In a brief interview in December, she said the group was "in the process of winding down." Zuk said a new social welfare nonprofit, [Partnership for America](#), had taken over Revere America's activities.

Some nonprofits provided other information in their applications that didn't line up with what they said in later filings.

America's Families First told the IRS in late 2009 that it would spend [50 percent](#) of its time on its website and emails, [30 percent](#) on conferences and [20 percent](#) on grants.

There's no sign America's Families First sponsored any conferences, however. The group's [website](#) consists of a photograph of a family holding hands and a single paragraph of text. Its tax return does not specify how much time the group spent on grants, but most of its expenditures were grants to other liberal groups.

Although America's Families First's IRS application said the group would "be funded by contributions from [individuals only](#)," tax records show much of its money came from other sources.

The group received [\\$2 million](#) from the Pharmaceutical Research and Manufacturers of America, or PhRMA, the pharmaceutical industry's main trade group, and an additional \$3.15 million from the [National Education Association](#) teachers union weeks before the election. The contributions became public in late 2011, when [PhRMA](#) and the [NEA](#) disclosed them.

America's Families First's leadership includes Greg Speed, now the treasurer for [Priorities USA Action](#), the super PAC devoted to re-electing Obama.

In a written statement, a spokeswoman for America's Families First said the group's application for IRS recognition broadly sketched out its planned activities. "As with all plans, they evolve, we adjusted our execution of activities and fundraising to reflect the changing environment and landscape," she wrote in an email.

Social welfare nonprofits can operate without IRS recognition, although most seek it. Having the agency's approval helps with fundraising and can help insulate groups against sanctions or back taxes later, experts say.

Three groups that spent money on politics in 2010 — Crossroads GPS, [Arkansans for Common Sense](#) and the CVFC 501c4, which appears to be related to Combat Veterans for Congress — have applied for IRS recognition but have yet to receive it.

In some cases, however, the IRS first learns about social welfare nonprofits when they file tax returns — by which time they may be inactive or defunct.

Five nonprofits that spent money on politics in 2010 confirmed they never applied for IRS recognition. Another seven groups said on tax returns that they had no application pending; the IRS had no record of recognizing them.

One of the groups never even filed the required tax return. [America's Future Fund](#), a Louisiana 501(c)(4) incorporated in June 2009 by lawyer Bryan Jeansonne, spent more than \$100,000 in October 2010 sending political mailers to Nevada voters. The following [February](#), it dissolved.

In an email, Jeansonne acknowledged the group had not submitted the tax filing, saying its accountant had said it was unnecessary. He did not respond to follow-up questions.

Spending Reported to IRS, FEC Often Doesn't Match

Under state and federal laws, social welfare nonprofits must tell election authorities when they pay for independent expenditures, which are ads, mailings and phone calls that directly ask for people to vote for or against a candidate.

They also must report spending on electioneering communications — ads that mention candidates and run just before elections but are less explicit, using language like, "Call Candidate X. Tell him to stop killing jobs."

ProPublica identified 103 groups that reported such spending to state and federal election officials in 2010. But in tax filings covering the same period, at least 30 of these groups told the IRS they spent no money to influence elections, either directly or indirectly.

The [Women's Voices Women Vote Action Fund](#), for example, told the FEC it spent \$250,000 on [ads calling for people to vote](#) for a Democrat for Senate in Maine, but it told the IRS it [spent](#)

[nothing](#) on politics. Asked about the disparity, an official with the nonprofit said it was an inadvertent error and the group would amend its tax return.

Other groups reported less spending to the IRS than they acknowledged to election officials. [Americans for Tax Reform](#) told the IRS it spent about \$1.86 million on campaign activity, less than half of the \$4.2 million it told the FEC it spent on ads supporting Republicans and opposing Democrats. The group did not respond to calls or emails asking for comment.

One possible reason for such differences is that the FEC has specific guidelines for what constitutes a political ad, while the IRS goes case by case, looking at the content of ads, when they ran, and how they relate to groups' other spending. In tax filings, groups are asked to report both direct and indirect political spending.

Yet many social welfare groups have interpreted the IRS guidelines to mean they can report what the FEC considers to be electioneering communications as "education," "lobbying" or "issue advocacy" on tax filings.

Consider the [American Action Network](#), which reported spending [\\$25.7 million](#) on its 2010 tax return.

The group told the IRS the bulk of that money, [\\$17 million](#), went for lobbying and only [\\$5 million](#) went to political activity. But that same year, it told the FEC it spent more than \$19 million on ads.

Conston, the American Action Network's spokesman, declined to explain the discrepancy, saying that the group had complied with all applicable laws.

Details in FEC filings offer some additional clues. The American Action Network reported \$4 million in independent expenditures for 2010. Those ads clearly should be reported to the IRS as political spending, experts say. The group also reported \$15.4 million in electioneering communications to the FEC — the only category on its 2010 tax form large enough to cover this amount is lobbying.

Many of the electioneering communication ads are no longer accessible online. ProPublica found nine that remain public. These cost more than \$4.4 million, FEC records show.

Most criticized Democrats in vulnerable districts for supporting then-House Majority Leader Nancy Pelosi or health care reform. One focused on Nevada Rep. Dina Titus, showing a woman talking to a friend on Skype about the Democratic congresswoman.

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"Apparently, convicted rapists can get Viagra paid for by the new health bill," the woman said. Later, she added, "I mean, Viagra for rapists? With my tax dollars? And Congresswoman Titus voted for it."

At ProPublica's request, Ellen Aprill, a law professor and the John E. Anderson chair in tax law at Loyola Law School in Los Angeles, reviewed the ads to assess whether they fit the IRS definition of political spending.

Criticizing particular lawmakers or candidates makes it likely that the IRS would see such ads as attempts to influence elections, rather than as issue advocacy or lobbying, Aprill said.

"Not simply saying this is bad legislation, but these people hurt you — with the implication, 'Don't send them back to Congress,'" she said.

Even in cases in which it seems clear that nonprofits have not met reporting requirements for political spending, groups sometimes stop operating before regulators can take action.

The [Commission on Hope, Growth and Opportunity](#) paid for a series of ads in 2010 that cost an estimated \$2.3 million, according to CMAG.

One portrayed a cartoon dance line featuring Obama, Pelosi and an interchangeable Democrat, depending on where the ad ran. "Folks in Washington are living it up," it said. The ad urged viewers to "join" the Republican challenger.

Still, the group reported no spending to the FEC. In its 2010 tax return, it said it put at least [\\$4.6 million](#) — 96 percent of its total expenditures — into advertising, yet insisted it spent [nothing](#) to influence elections.

The [Commission on Hope, Growth and Opportunity](#) now appears dormant. Calls and emails to the group went unanswered.

"They are, of course, the best example of one of the problems with this: You can go into business and violate the law and then go out of business," said Melanie Sloan, the executive director of the [Citizens for Responsibility and Ethics in Washington](#), which filed complaints against the group with the IRS and FEC. "And what's ever going to happen about that? There's no consequence."

Grants to Other Nonprofits Flow Into Politics

One way 501(c)(4) groups appear to fulfill their social welfare obligation is by making grants to other groups that share their tax status. Yet since the recipients also funnel money into politics, it's possible the grant money is ultimately spent on ads or other election-related activities.

According to its tax return, the nonprofit [CitizenLink](#) gave a grant of [\\$120,000](#) to the [Susan B. Anthony List](#) to "assist with purchase of TV promotional spots & election help." CitizenLink did not count this money as [political spending](#), the return said. The Susan B. Anthony List then used the money to help buy ads criticizing [two Democrats](#) for betraying voters by supporting health care reform, according to FEC reports. (The ads credited CitizenLink for helping pay for them.)

Another group, [CSS Action Fund](#), [gave a grant](#) of \$175,865 to Economy Forward for "promoting health care reform." Economy Forward spent almost all of this on ads promoting Sen. Harry Reid's help for the economy; health care reform wasn't mentioned.

Sometimes, ProPublica found, money passed back and forth between pairs or clusters of nonprofits with similar political agendas. It's not clear if the IRS compares tax filings and observes these patterns.

According to tax returns for 2010, the WMC Issues Mobilization Council gave [\\$865,000](#) to the American Justice Partnership, which in turn gave [\\$205,000](#) to the WMC Issues Mobilization Council. Both groups backed conservative causes and candidates.

The Republican Jewish Coalition reported making [grants](#) to Crossroads GPS and the American Action Network in 2010, giving each group \$4 million. Both groups returned the favor, reporting grants to the Republican Jewish Coalition in their 2010 tax years. Crossroads GPS gave the coalition [\\$250,000](#), while the American Action Network chipped in [\\$200,000](#).

Some nonprofits claim to stay out of politics but funnel money to other nonprofits that spend heavily on elections.

The Center to Protect Patient Rights, a group led by GOP strategist Sean Noble, reported on its 2010 tax return that it spent [no money](#) on politics.

As the [Center for Responsive Politics first reported](#), however, almost three-quarters of the group's income — a total of more than [\\$44 million](#) — went to other [social welfare groups](#) that were politically active, such as the American Future Fund and the [60 Plus Association](#).

Brooks, the Republican Jewish Coalition's executive director, said grants to other groups should "absolutely count" toward meeting a group's primary social welfare purpose. "It's not obscuring the source of the money because it's fully reported and disclosed," he said. "We happily support other organizations that share our goals and our work."

Jonathan Collegio, a spokesman for Crossroads GPS, said forming a network of like-minded groups was the only way to change policy. He said Crossroads GPS sent the Republican Jewish Coalition a contribution because it "had a great program of work."

Some experts, however, compared the transactions to Russian nesting dolls, with each layer opening to reveal another, equally inscrutable one underneath. Even if a social welfare nonprofit had to reveal the donors behind an ad, it would be another nonprofit. There would be no way to trace the money to the original source.

For instance, the Independent Women's Voice and Citizens for the Republic, two nonprofits that made disclosures to the FEC about political ads purchased in 2010, identified a new social welfare group, The Annual Fund, as a major contributor.

And where did [The Annual Fund](#) get its money? Mostly from yet another social welfare nonprofit, the [Wellspring Committee](#), run by the wife of The Annual Fund's founder.

Efforts for More Transparency Fall Short

The new breed of political nonprofits may operate differently from traditional social welfare organizations, but some say they serve a vital purpose in an era of increasingly bitter political partisanship.

Dan Backer, a lawyer who represents several conservative nonprofits, pointed to the [Obama team's decision](#) to single out donors like the Koch brothers.

"You have the president of the United States attacking donors," Backer said. "A lot of them have been named in person by the president as bad people. That's horrifying."

Openly taking controversial political positions can be bad for business. Some Democrats and gay-rights groups called for a boycott of [Target](#) in 2010 after the company donated \$150,000 to a fund supporting a Republican candidate for governor in Minnesota who opposed gay marriage. Company officials swiftly apologized.

So far, efforts to impose limits on social welfare groups or demand more transparency from them have mostly failed.

Last summer, after coming under criticism, the [IRS abandoned efforts](#) to force five major donors to pay gift tax on contributions to social welfare nonprofits heavily involved in politics. This essentially gave the green light to donors worried about whether their donations could be taxed.

Bills to strengthen [disclosure requirements](#) have failed in the House and the Senate. The [Supreme Court](#) opted against reconsidering Citizens United in June.

In July, responding to a court ruling, the FEC said social welfare groups would have to identify [major donors](#) to electioneering communications. But groups are already finding work-arounds,

coming up with [different types of ads](#) or making sure the only donors they have to disclose are other nonprofits.

Watchdogs say they are frustrated that neither the IRS nor the FEC has been willing to enforce or even clarify the rules that exist to force transparency.

"I'm relatively pessimistic right now," said Karl Sandstrom, a former FEC vice chairman who's now with the Perkins Coie law firm. "We have agencies that are in some cases silent, in some cases divided and in some cases as slow as they can possibly be."

The IRS appears to be shifting its attention toward whether 501(c)(4)s benefit a segment of society, not the public as a whole, another requirement for such groups. In the past 18 months, the IRS rejected the applications of at least [four groups](#) and revoked the tax-exempt status of one small [Democratic nonprofit](#) and its affiliates for this reason. In most of these cases, the agency concluded the groups were run "primarily for the benefit of a political party and a private group of individuals."

Owens, the former head of the IRS nonprofit division who is now a lawyer at Caplin & Drysdale, said agents are probably examining other social welfare nonprofits using that framework, asking whether a group like Crossroads GPS benefits the community at large or a subset of politicians.

"Crossroads says its issue is free enterprise," he said. "That's their argument: They're really not carrying water for the Republicans. They're carrying water for free enterprise. It will be interesting to see if they make that argument stick. I think it'll be tough."

The IRS also has yet to make a decision on Crossroads GPS' request for recognition of its tax-exempt status, which news reports say was filed in [September 2010](#). Owens and others speculate that the IRS may be looking hard at the group.

Collegio, the spokesman for Crossroads GPS, said in an email that "without an IRS statement on the matter it is wholly irresponsible and unproductive to speculate."

Most experts do not expect the campaign finance landscape to change much before November, leaving social welfare nonprofits and their anonymous backers ample opportunity to influence who wins.

"The candidates and office holders will know where this money came from," said Paul S. Ryan, senior counsel for the Campaign Legal Center. "The political players who are soliciting these funds and are benefiting from the expenditure of these funds will know where the money came from. The only ones in the dark will be American voters."